

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

VISION SERVICE PLAN,

NO. CIV. S-04-1993 LKK/JFM

Plaintiff,

v.

O R D E R

UNITED STATES OF AMERICA,

Defendant.

The United States has filed a motion to reconsider an order of Magistrate Judge Moulds denying in part the Government's motion for a protective order.

It is not clear to this court that the issue is moot. Although the deposition took place, it appears that the Government's direction to its witnesses not to answer was in direct conflict with the previous order, and thus will probably give rise to a motion to compel answers to those questions. Nonetheless, as plaintiff argues the motion must be denied.¹

¹ If, as plaintiff suggests, the Government is stone walling and refusing to answer relevant questions concerning its legal

1 As plaintiff maintains, the scope of review of the Magistrate
2 Judge's order in issue is very narrow. This court cannot determine
3 that, under all the circumstances, the Magistrate Judge's order was
4 clearly erroneous or contrary to law. See L.R. 72-303(f); Fed. R.
5 Civ. P. 72(a).

6 The motion is DENIED.

7 IT IS SO ORDERED.

8 DATED: September 19, 2005.

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10 /s/Lawrence K. Karlton

LAWRENCE K. KARLTON

11 SENIOR JUDGE

12 UNITED STATES DISTRICT COURT
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25 position, and if by virtue of the cut off for discovery plaintiff
26 will be deprived of an opportunity to elicit that information, the
proper remedy may be the exclusion at trial of evidence concerning
the defendant's position, or a determination that the Government
has waived any right to present a legal theory.